IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

Writ Petition 8940 of 2005

Smt Kankuben S Patel..Petitioner
vs
State of Mah and ors..Respondents

Mr. M V Aiya for petitioner
Mr. J K Jadhav for respondent no.4

CORAM: S.U.KAMDAR J.

Dated 2l.l2.2005

P.C:

. The present petition is challenging the order passed by the Minister dated 2.l2.2005. By the said order the allotment of ration shop to the petitioner in preference to respondent no. 4 has been set aside and the ration shop is allotted to the respondent no. 4. There is no dispute that the respondent no. 4 is in priority than that of the petitioner. However, the claim of the respondent no. 4 was rejected by the Rationing Officer by indicating in his report that the tax receipt which has been produced shows that the structure is unauthorised. However, the learned counsel for the respondent no. 4 has produced the tax receipt which was produced before the authority on 24.9.2004 which nowhere mentions that the said structure is unauthorised.The respondent no.4’s

application fro shop was wrongly rejected against which he has preferred revision. The revisional authority has not only considered the said tax receipt but also given a finding that by virtue of a circular of l995 the gaothan premises are regularised and therefore the case of the respondent no. 4 was wrongly rejected and thus he is entitled to the said ration shop by virtue of the fact that he is educated unemployed person and thus falls in higher priority category than that of the petitioner herein. The learned counsel for the respondent no. 4 has also stated that the Minister has also considered the fact as to whether the structure is authorised or not. The respondent no. 4 has produced the tax book of Mahanagarpalika to show that the structure is duly assessed. The learned counsel for the petitioner contends that the said document could not have been produced for the first time in revision proceedings and, therefore, the order is required to be set aside. In my opinion there is no substance in the said contention. Firstly the learned counsel for petitioner failed to establish that the observations made by the authority in the report that the tax receipt shows that the structure is authorised, is correct. On the contrary the tax receipt indicates that the observation of the

rationing officer is erroneous and false. In that light of the matter the interference by the Minister in revision application was appropriate and his finding cannot be treated as erroneous or incorrect or perverse, requiring interference in writ jurisdiction under Art 227 of the Constitution. Hence petition is dismissed with no order as to costs.